

WIGGIN MEMORIAL LIBRARY
Policy & Procedures for responding to Law Enforcement

v.10/2012

Introduction

The Wiggin Memorial Library (WML) is committed to preserving the confidentiality of all personally identifiable information about library use in accordance with NH RSA 202 D:11. The Wiggin Memorial Library strives to create a library environment that is:

- crime free
- a welcoming place
- a place for learning and pursuit of information on any topic
- a place where library users can ask any question and discuss any topic

In support of these goals, the Library will do its utmost to uphold the privacy and confidentiality of library users' free access to information in accordance with NH state law and the American Library Association's Code of Ethics which states that "[librarians shall] protect each library user's right to privacy and confidentiality with respect to information sought or received, and resources consulted, borrowed, acquired, or transmitted."

However, the library also recognizes that there may be situations when records regarding library use by individual users will be requested through lawfully issued subpoenas and search warrants. It is the policy of the Library that confidential library records should not be released or made available in any form to a federal agent, law enforcement officer, or other person unless a court order has been entered by a court of competent jurisdiction after a showing of good cause by the law enforcement agency or person seeking the records. Access to library user information may include but not be limited to*:

- Database Search Records
- Circulation Records
- Computer Use Records
- Inter-Library Loan Records
- Reference Interviews

To respond appropriately to requests for such information, the Wiggin Memorial Library adopts the following policies and procedures:

Responding to Subpoenas and Search Warrants

All requests for library use information should be forwarded immediately to the Library Director, a Supervisor or a Library Trustee. If a law enforcement agent or officer or other person has presented a court order, the Library Director, Supervisor or Library Trustee will evaluate the request and arrange for an appropriate response consistent with this policy. Valid court orders can come in two forms, a subpoena or a search warrant. Subpoenas do not have to be acted on immediately; search warrants are immediately executable.

* Please refer to: Procedures Regarding Information Access and Confidentiality

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Subpoenas

The Library and its employees are subject to the subpoena powers of state and federal courts in both criminal and civil matters. Through the issuance of subpoenas, law enforcement agencies and other third persons involved in legal matters to which the Library is not a party may seek to compel production of library records that they consider relevant to such matters. Subpoenas may present issues of confidentiality and may also be subject to other valid objections in some cases.

To protect the interests of the Library and library users, any library employee who is served with a subpoena relating in any way to library operations will immediately forward the subpoena to the Library Director or a Library Trustee for review. In no event shall the employee receiving the subpoena undertake actions to comply with or respond in any way to the subpoena before review by the Library Director or a Library Trustee.

The Library Director or Trustee will identify and review any records that are the subject of the subpoena. The Library Director or Trustee may consult with Library legal counsel as to any legal issues involved, including determining whether the subpoena is valid and what procedures are to be followed in complying with the subpoena.

The Library Director or Trustee will give written notice to the user whose records have been subpoenaed and the user's legal counsel, if known, that a subpoena has been served. If the subpoena appears to be valid, the notice will further inform the user that the records will be produced unless the user files a motion to quash, or files for a protective order with the appropriate court prior to the date required for production of the records. However, users or their attorneys will not be contacted in those circumstances when the Library is notified that the court has ruled that the issuance of the subpoena is to be kept confidential. The Library Director or Trustee will arrange for an appropriate response to be made to the subpoena within required time constraints.

Search Warrants

If the court order is in the form of a search warrant, it is executable immediately. The law enforcement agent or officer may begin a search of library records as soon as the Library Director or Supervisor or Library Trustee is served with the court's order. However, as deemed appropriate, the Library Director, Supervisor or Library Trustee may insist that Library legal counsel be present, if possible, before the search begins to examine the warrant and to ensure that the search conforms to its terms. If a valid warrant has been presented, the Library Director, Supervisor or Library Trustee will cooperate with the search to limit production to the records identified in the warrant, and to protect against the production, viewing or scanning of other users' records. However, if the warrant appears to be defective, the Library Director, Supervisor or Library Trustee will consult with Library legal counsel on whether there is a defect, and if so, the best method to address it.

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USA PATRIOT Act Search Warrants

About the USA Patriot Act of 2001

HR-3162 became Public Law 107-56 in response to the events of 9/11/01. The full title of the law is: *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001*.

The Act may provide law enforcement broader boundaries when investigating information accessed and transmitted by library users with regards to national security concerns. The Act allows law enforcement agents or officers to obtain a search warrant for “any tangible thing,” which can include books, records, papers, storage media (floppy disks, CD-ROMs, DVDs), data tapes, and computers with hard drives. Law enforcement agents can also obtain a court order allowing the monitoring of Internet and e-mail use, or requiring that the Library provide the information about such use to law enforcement from the Library’s records. The Library is prohibited from disclosing to the Library user or any other party that a search warrant issued under the USA PATRIOT Act has been delivered and executed.

All search warrants issued pursuant to the USA PATRIOT Act for library user information shall be forwarded immediately to the Library Director or a Library Trustee. If possible, Library legal counsel should also be consulted prior to allowing a search to allow counsel to examine the warrant and to ensure that the search conforms to its terms.

After service of a search warrant issued under the USA PATRIOT Act, no library employee may disclose the existence of the warrant or the fact that records were produced as a result of the warrant other than to the Library Director or a Library Trustee, who will notify Library legal counsel. If a law enforcement officer indicates to a library employee when serving the warrant that no other library staff should be informed, the library employee nevertheless should immediately forward it to the Library Director or a Library Trustee, without interfering in the law enforcement officer’s search activities. The USA PATRIOT Act does not prohibit any library employee from notifying the Library Director or a Library Trustee that a search warrant has been served. However, the library user whose records were produced may not be informed that his or her records were given to law enforcement authorities or that he or she is the subject of a law enforcement investigation.

Other Policy Issues: Emergency Disclosures of Information

If in the normal course of business, the library staff observes what can be reasonably construed to be a threat of imminent danger to life and limb, they are to contact law enforcement immediately. They should then contact their supervisor or the library director or a library trustee and fill out an Incident Report form.

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***Procedures for Complying with Legal Court Orders
Presented by Law Enforcement Agents or Officers***

The Wiggin Memorial Library staff will comply with law enforcement when supplied with legal subpoena or warrant.

Staff Procedures:

- If anyone approaches you alleging to be law enforcement official requesting information, do not disclose to that individual any information. Immediately contact a supervisor or the library director.
- The supervisor or library director will ask to see official identification and will photocopy the ID.
- If law enforcement present a subpoena, library staff should direct that person to their supervisor or the library director; who will in turn direct the subpoena to legal counsel.
- If library staff is presented with a warrant, do not interfere with their search and seizure. Contact your supervisor, the library director or a library trustee as soon as possible.
- Keep a record of all legal requests.
- Keep a record of all costs incurred by any search and/or seizures.
- If a “Gag Order” is not in effect, the director will notify the American Library Association.
- Once the law enforcement agency’s search is concluded, the Library Director and/or the Library Board of Trustees will confer with Library legal counsel to ensure that the Library complies with any remaining requirements, including restrictions on sharing information with other parties. The Library will also review its policies and staff response and make any necessary revisions to this policy.

Procedures Regarding Information Access and Confidentiality

- Database Search Records: These records refer to the searches of the collection a patron may conduct on the Online Public Access Terminals (OPAC). These searches are conducted by utilizing the library’s automated circulation system, Koha. Koha is an open source application. Users do not log in to perform searches so there is no way to connect a particular library user with any particular search or search terms.

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- Circulation Records: Library materials are circulated via Koha. The circulation software tracks materials currently checked out, automatically erasing a reader's borrowing record once a book is returned. Patrons may opt to have their circulation records saved to be accessible only to library staff or with the patron's user id and password.
- Computer Use Records: The library has several computers available for use by the public. Library users sign up using first name only to use a computer for a particular period of time. The library tabulates computer use statistics once per month after which all paper records generated during computer sign-ups are destroyed. When library computers are restarted, Deep Freeze software erases all history of activity on that computer.
- Inter-Library Loan Records: Library users may borrow items not owned by the WML from other libraries statewide via Inter-Library Loan (ILL). The WML tracks items currently being borrowed and generates a paper record with library user information. Once the materials are returned, all appropriate fines and/or fees are paid, and statistics have been recorded, the paper record is destroyed.
- Reference Interviews: A reference interview occurs when a library user looking for information approaches a member of the library staff and the staff person questions or "interviews" the library user in order to determine the specific information needed. No paper record is kept during the interview that has any library user information on it. If a library user's name and number is taken for future research, and library user information is written down, as soon as the requested information is delivered, the paper record is destroyed.

Signatures of the Board of Trustees indicates adoption of this policy.

_____, Trustee Date: _____

_____, Trustee Date: _____

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